

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

PHILLIP RIVERA,  
Plaintiff,

v.

CATHY M. TALMADGE, *et al.*,  
Defendants.

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CIVIL ACTION NO. 19-CV-1208

**FILED**

APR 24 2019

KATE BARKMAN, Clerk  
By \_\_\_\_\_ Dep. Clerk

**ORDER**

AND NOW, this 23<sup>rd</sup> day of April, 2019, upon consideration of Plaintiff Phillip Rivera's Motion to Proceed *In Forma Pauperis* (ECF No. 7), his Prisoner Trust Fund Account Statement (ECF No. 8), and his *pro se* Complaint (ECF No. 1), which raises claims under 42 U.S.C. § 1983, it is **ORDERED** that:

1. Leave to proceed *in forma pauperis* is **GRANTED** pursuant to 28 U.S.C. § 1915.
2. Phillip Rivera, #1139722, shall pay the full filing fee of \$350 in installments, pursuant to 28 U.S.C. § 1915(b), regardless of the outcome of this case. The Court hereby directs the Warden of the Philadelphia Detention Center or other appropriate official to assess an initial filing fee of 20% of the greater of (a) the average monthly deposits to Rivera's inmate account; or (b) the average monthly balance in Rivera's inmate account for the six-month period immediately preceding the filing of this case. The Warden or other appropriate official shall calculate, collect, and forward the initial payment assessed pursuant to this Order to the Court with a reference to the docket number for this case. In each succeeding month when the amount in Rivera's inmate trust fund account exceeds \$10.00, the Warden or other appropriate official shall forward payments to the Clerk of Court equaling 20% of the preceding month's income

credited to Rivera's inmate account until the fees are paid. Each payment shall reference the docket number for this case.

3. The Clerk of Court is directed to **SEND** a copy of this order to the Warden of the Philadelphia Detention Center.

4. The Complaint is **DEEMED** filed.

5. The Complaint is **DISMISSED without prejudice** pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) as to Defendants Cathy M. Talmadge, Warden; Campbell, SGT; and Booker, Captain.

6. Rivera is **GRANTED** leave to file an amended complaint within thirty (30) days of the filing of this Order. If Rivera chooses not to file an amended complaint this action will proceed against Defendant CO Brooks only.

7. Service of the Complaint will be **DEFERRED** until the time granted to Rivera to file an amended complaint has expired.

BY THE COURT:



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C. DARNELL JONES, II J.